

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG

TONY D. RILEY,

Plaintiff,

v.

CIVIL ACTION NO.: 3:16-CV-26
(GROH)

C. WILLIAMS, Warden, FCI Gilmer,
MR. WEAVER, Medical Director, FCI Gilmer,
DR. ANDERSON, MD Doctor, FCI Gilmer,
MRS. GROVE, Assist. Medical Director, FCI Gilmer;
MRS. WILSON, PA3 FCI Gilmer;
MRS. HALL, Nurse, FCI Gilmer;
MRS. POSEY; and MRS. PUTNAM;

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before the Court for consideration of the Report and Recommendation ("R&R") of United States Magistrate Judge James E. Seibert. Pursuant to this Court's Local Rules, this action was referred to Magistrate Judge Seibert for submission of a proposed R&R. Magistrate Judge Seibert issued his R&R [ECF No. 66] on September 19, 2017. In the R&R, he recommends that the Plaintiff's complaint [ECF No. 1] be dismissed without prejudice.

Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. Thomas v. Arn, 474 U.S. 140,

150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and of a Plaintiff's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); Snyder v. Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989); United States v. Schronce, 727 F.2d 91, 94 (4th Cir. 1984).

Objections to Magistrate Judge Seibert's R&R were due within fourteen plus three days of the Plaintiff being served with a copy of the same. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The Court notes that the R&R was mailed to the Plaintiff and returned as undeliverable. Accordingly, no objections have been filed. However, the Court emphasizes that the Plaintiff has a continuing obligation to keep the Court informed of his mailing address. Despite this obligation, several pieces of mail sent to his registered address have been returned as undeliverable. Thus, this Court will review the R&R for clear error.

Upon careful review of the R&R, it is the opinion of this Court that Magistrate Judge Seibert's Report and Recommendation [ECF No. 66] should be, and is hereby, **ORDERED ADOPTED** for the reasons more fully stated therein.

Accordingly, the Plaintiff's Complaint [ECF No. 1] is **DISMISSED WITHOUT PREJUDICE** and the Defendant's Motion to Dismiss for Failure to Prosecute [ECF No. 56] is hereby **GRANTED**. This matter is **ORDERED STRICKEN** from the Court's active docket. The Clerk of Court is **DIRECTED** to transmit a copy of this Order to the *pro se* Plaintiff and all counsel of record herein.

DATED: October 18, 2017



GINA M. GROH
CHIEF UNITED STATES DISTRICT JUDGE